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FTB NOTICE 2005 – 1

March 4, 2005

**SUBJECT: REQUEST FOR PUBLIC COMMENT --
DISCUSSION DRAFT OF PROPOSED CHANGES TO
CALIFORNIA CODE OF REGULATIONS, TITLE 18,
SECTIONS 24411 AND 25106.5**

The Franchise Tax Board staff has prepared a discussion draft of proposed amendments to the existing regulations adopted under Revenue and Taxation Code (RTC) sections 24411 and 25106.5-1. The proposed amendments would add provisions that address the ordering of dividends paid from earnings and profits that are, in part or in whole, eligible for deduction, exclusion, elimination, or are wholly taxable. In general, the regulations would apply the ordering rules of section 316 of the Internal Revenue Code, and if a distribution from a given year's earnings and profits are not sufficient to exhaust the earnings and profits of that year, the distribution will be considered drawn from each class of potential dividend on a pro rata basis.

The proposed amendments also make minor technical amendments to the regulations under those sections. These amendments relate to sales factor treatment of business dividends not eliminated under RTC section 25106, and to construction dividends eligible for the 100% deduction under RTC section 24411.

Due to the potentially broad impact of this amendment, the Franchise Tax Board staff is making the draft of the proposed amendments and a brief explanation thereof available to the public for informal review and comment prior to commencement of the formal regulatory process.

For copies of the discussion draft of the proposed addition to the regulation or for further information regarding this notice, contact Colleen Berwick at the Franchise Tax Board Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-3306; Fax: (916) 845-3648; E-Mail: Colleen.Berwick@ftb.ca.gov. The draft and explanation are also available at the Franchise Tax Board's website at <http://www.ftb.ca.gov/>.

Written comments may also be addressed to Ms. Berwick and should be submitted no later than 5:00 p.m., April 4, 2005. The department will hold a public symposium on these proposed amendments prior to commencement of the formal regulatory hearing process. If the discussion draft amendments are officially noticed, any comments received in the course of any symposium or public meeting will be included in the official rulemaking file (within the meaning of the Administrative Procedure Act). Participants may comment at the symposium

without name attribution. A summary of the symposium will be made available to all participants, and will also be included in the official rulemaking file.

The symposium to discuss the discussion draft amendments will be held on April 4, 2005, at the Franchise Tax Board, Central Office, 9646 Butterfield Way, Sacramento, CA, in Room 1040 of Phase II, beginning at 10:00 am. If you have any questions regarding the symposium, please contact Ms. Berwick.

If you are interested in obtaining any supplements or other changes to the draft proposed amendments, or to be included on the mailing list for any formal rulemaking activity with respect to the proposed amendments, please advise Ms. Berwick at the above address and she will add your name to the mailing list.

The principal author of this notice is Michael Brownell of the Franchise Tax Board, Legal Department. For further information regarding this notice, contact Mr. Brownell at the Franchise Tax Board, Legal Department, P.O. Box 1720, Rancho Cordova, CA 95741-1720; Tel.: (916) 845-5245; Fax: (916) 845-3648; E-Mail: Michael.Brownell@ftb.ca.gov.